

# Senate File 118 - Introduced

SENATE FILE \_\_\_\_\_  
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 1032)

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

## A BILL FOR

1 An Act relating to the judicial branch including contested and  
2 uncontested parking violations, city and county penalties,  
3 filing civil citations of municipal infractions with the  
4 clerk, records kept by the clerk, and service of original  
5 notice in a small claims action.  
6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
7 TLSB 1402SV 83  
8 jm/rj/8

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1 1 Section 1. Section 321.236, subsection 1, unnumbered  
1 2 paragraph 2, Code 2009, is amended to read as follows:  
1 3 Parking meter, snow route, and overtime parking violations  
1 4 which are ~~denied~~ contested shall be charged and proceed before  
1 5 a court the same as other traffic violations. Filing fees and  
1 6 court costs shall be assessed as provided in section 602.8106,  
1 7 subsection 1 and section 805.6, subsection 1, paragraph "a"  
1 8 for parking violation cases. ~~Parking violations which are~~  
~~1 9 admitted.~~  
1 10 Sec. 2. Section 321.236, subsection 1, paragraphs a and b,  
1 11 Code 2009, are amended to read as follows:  
1 12 a. ~~May Parking violations which are uncontested shall be~~  
1 13 ~~charged and collected upon a simple notice of a fine payable~~  
1 14 ~~to the city clerk, if authorized by ordinance.~~ The fine for  
1 15 each violation charged under a simple notice of a fine shall  
1 16 be established by ordinance. The fine may be increased by  
1 17 five dollars if the parking violation is not paid within  
1 18 thirty days of the date upon which the violation occurred, ~~if~~  
~~1 19 authorized by ordinance.~~ Violations of section 321L.4,  
1 20 subsection 2, ~~may shall~~ be charged and collected upon a simple  
1 21 notice of a one hundred dollar fine payable to the city clerk,  
~~1 22 if authorized by ordinance. No costs Costs or other charges~~  
1 23 shall be assessed. All fines collected by a city pursuant to  
1 24 this paragraph shall be retained by the city and all fines  
1 25 collected by a county pursuant to this paragraph shall be  
1 26 retained by the county, except as provided by an agreement  
1 27 between a city and a county treasurer for the collection of  
1 28 fines pursuant to section 331.553, subsection 8.  
1 29 b. ~~Notwithstanding any such ordinance, may be prosecuted~~  
~~1 30 under the provisions of sections 805.7 to 805.13 or as any~~  
~~1 31 other traffic violation.~~  
1 32 Sec. 3. Section 331.302, subsection 2, Code 2009, is  
1 33 amended to read as follows:  
1 34 2. ~~A For a violation of an ordinance a county shall not~~  
1 35 provide a penalty in excess of ~~a five hundred dollar the~~  
~~2 1 maximum fine or in excess of thirty days and term of~~  
~~2 2 imprisonment for the violation of an ordinance a simple~~  
~~2 3 misdemeanor under section 903.1, subsection 1, paragraph "a".~~  
2 4 The criminal penalty surcharge required by section 911.1 shall  
2 5 be added to a county fine and is not a part of the county's  
2 6 penalty.  
2 7 Sec. 4. Section 331.302, subsection 4A, paragraph a,  
2 8 subparagraph (2), Code 2009, is amended to read as follows:  
2 9 (2) A portion of the Code of Iowa may be adopted by  
2 10 reference only if the criminal penalty provided by the law  
2 11 adopted does not exceed ~~thirty days the maximum fine and term~~  
~~2 12 of imprisonment and a five hundred dollar fine for a simple~~  
~~2 13 misdemeanor under section 903.1, subsection 1, paragraph "a".~~

2 14 Sec. 5. Section 364.3, subsection 2, Code 2009, is amended  
2 15 to read as follows:  
2 16 2. ~~A For a violation of an ordinance a city shall not~~  
2 17 ~~provide a penalty in excess of a five hundred dollar the~~  
2 18 ~~maximum fine or in excess of thirty days' and term of~~  
2 19 ~~imprisonment for the violation of an ordinance a simple~~  
2 20 ~~misdemeanor under section 903.1, subsection 1, paragraph "a".~~  
2 21 An amount equal to ten percent of all fines collected by  
2 22 cities shall be deposited in the account established in  
2 23 section 602.8108. However, one hundred percent of all fines  
2 24 collected by a city pursuant to section 321.236, subsection 1,  
2 25 shall be retained by the city. The criminal penalty surcharge  
2 26 required by section 911.1 shall be added to a city fine and is  
2 27 not a part of the city's penalty.

2 28 Sec. 6. Section 364.22, subsection 4, unnumbered paragraph  
2 29 1, Code 2009, is amended to read as follows:  
2 30 An officer authorized by a city to enforce a city code or  
2 31 regulation may issue a civil citation to a person who commits  
2 32 a municipal infraction. ~~The A copy of the~~ citation may be  
2 33 served by personal service as provided in rule of civil  
2 34 procedure 1.305, by certified mail addressed to the defendant  
2 35 at the defendant's last known mailing address, return receipt  
3 1 requested, or by publication in the manner as provided in rule  
3 2 of civil procedure 1.310 and subject to the conditions of rule  
3 3 of civil procedure 1.311. A copy of the citation shall be  
3 4 retained by the issuing officer, and ~~one copy the original~~  
3 5 ~~citation~~ shall be sent to the clerk of the district court.  
3 6 The citation shall serve as notification that a civil offense  
3 7 has been committed and shall contain the following  
3 8 information:  
3 9 Sec. 7. Section 380.10, subsection 2, Code 2009, is  
3 10 amended to read as follows:  
3 11 2. A portion of the Code of Iowa may be adopted by  
3 12 reference only if the criminal penalty provided by the law  
3 13 adopted does not exceed ~~thirty days' the maximum fine and term~~  
3 14 ~~of imprisonment and a five hundred dollar fine for a simple~~  
3 15 ~~misdemeanor under section 903.1, subsection 1, paragraph "a".~~

3 16 Sec. 8. Section 523I.602, subsection 4, Code 2009, is  
3 17 amended to read as follows:  
3 18 4. RECEIPT == CEMETERY RECORD. Every such trustee shall  
3 19 execute and deliver to the donor a receipt showing the amount  
3 20 of money or other property received, and the use to be made of  
3 21 the net proceeds from the same, duly attested by the clerk of  
3 22 the court granting letters of trusteeship, ~~and a copy thereof,~~  
3 23 ~~signed by the trustee and so attested, shall be filed with and~~  
3 24 ~~recorded by the clerk in a book to be known as the cemetery~~  
3 25 ~~record, in which shall be recorded all reports and other~~  
3 26 ~~papers, including orders made by the court relative to~~  
3 27 ~~cemetery matters and the trustee shall keep a signed and~~  
3 28 ~~attested copy of the receipt.~~

3 29 Sec. 9. Section 602.8104, subsection 2, paragraph h, Code  
3 30 2009, is amended by striking the paragraph.  
3 31 Sec. 10. Section 602.8104, subsection 2, Code 2009, is  
3 32 amended by adding the following new paragraph:  
3 33 NEW PARAGRAPH. k. A record book of certificates of  
3 34 deposit, not in the clerk's name, which are being held by the  
3 35 clerk on behalf of a conservatorship, trust, or an estate  
4 1 pursuant to a court order as provided in section 636.37.

4 2 Sec. 11. Section 602.8106, subsection 1, paragraph c, Code  
4 3 2009, is amended to read as follows:  
4 4 c. For filing and docketing a complaint or information or  
4 5 uniform citation and complaint for parking violations under  
4 6 sections 321.236, 321.239, 321.358, 321.360, and 321.361,  
4 7 eight dollars, effective January 1, 2004. The court costs in  
4 8 cases of parking meter and overtime parking violations which  
4 9 are ~~denied contested~~, and charged and collected pursuant to  
4 10 section 321.236, subsection 1, or pursuant to a uniform  
4 11 citation and complaint, are eight dollars per information or  
4 12 complaint or per uniform citation and complaint effective  
4 13 January 1, 1991.

4 14 Sec. 12. Section 631.4, subsection 1, paragraph a, Code  
4 15 2009, is amended to read as follows:  
4 16 a. If the defendant is a resident of this state, or if the  
4 17 defendant is a nonresident of this state and is subject to the  
4 18 jurisdiction of the court under rule of civil procedure 1.306,  
4 19 the plaintiff may elect service under this paragraph, and upon  
4 20 receipt of the prescribed costs the clerk shall mail to the  
4 21 defendant by certified mail, restricted delivery, return  
4 22 receipt to the clerk requested, a copy of the original notice  
4 23 together with a conforming copy of an answer form. However,  
4 24 if the defendant is a corporation, partnership, or

4 25 association, the clerk shall mail to the defendant by  
4 26 certified mail, return receipt to the clerk requested, a copy  
4 27 of the original notice with a conforming copy of an answer  
4 28 form. The defendant is required to appear within twenty days  
4 29 following the date service is made.  
4 30 Sec. 13. Section 636.37, Code 2009, is amended to read as  
4 31 follows:

4 32 636.37 DUTY OF CLERK.  
4 33 1. The clerk of the district court with whom any deposit  
4 34 of funds, moneys, or securities shall be made, as provided by  
4 35 any law or an order of court, shall enter in a book, to be  
5 1 provided and kept for that purpose, the amount of such  
5 2 deposit, the character thereof, the date of its deposit, from  
5 3 whom received, from what source derived, to whom due or to  
5 4 become due, if known.  
5 5 2. A separate book shall be maintained for all  
5 6 certificates of deposit not in the name of the clerk of the  
5 7 district court that are being held by the clerk on behalf of a  
5 8 conservatorship, trust, or estate. The book shall list the  
5 9 relevant details of the transaction, including but not limited  
5 10 to the name of the conservator, trustee, or executor, and  
5 11 cross references to the court orders opening and closing the  
5 12 conservatorship, trust, or estate.

5 13 Sec. 14. Section 805.8A, subsection 1, paragraph a, Code  
5 14 2009, is amended to read as follows:  
5 15 a. For parking violations under sections 321.236, 321.239,  
5 16 321.358, 321.360, and 321.361, the scheduled fine is five  
5 17 dollars, except if the local authority has established the  
5 18 fine by ordinance ~~pursuant to section 321.236, subsection 1.~~  
5 19 The scheduled fine for a parking violation pursuant to section  
5 20 321.236 increases by five dollars, ~~as if authorized by~~  
5 21 ~~ordinance pursuant to section 321.236, subsection 1, and if~~  
5 22 ~~the parking violation is not paid within thirty days of the~~  
5 23 ~~date upon which the violation occurred. For purposes of~~  
5 24 ~~calculating the unsecured appearance bond required under~~  
5 25 ~~section 805.6, the scheduled fine shall be five dollars, or if~~  
5 26 ~~the amount of the fine is greater than five dollars, the~~  
5 27 ~~unsecured appearance bond shall be the amount of the fine~~  
5 28 ~~established by the local authority pursuant to section~~  
5 29 ~~321.236, subsection 1.~~ However, violations charged by a city  
5 30 or county upon simple notice of a fine instead of a uniform  
5 31 citation and complaint ~~as permitted~~ required by section  
5 32 321.236, subsection 1, paragraph "a", are not scheduled  
5 33 violations, and this section shall not apply to any offense  
5 34 charged in that manner. For a parking violation under section  
5 35 321.362 or 461A.38, the scheduled fine is ten dollars.

6 1 EXPLANATION  
6 2 This bill relates to the judicial branch including  
6 3 contested and uncontested parking violations, city and county  
6 4 penalties, filing civil citations of municipal infractions,  
6 5 records kept by the clerk, and service of original notice in a  
6 6 small claims action.

6 7 The bill removes the clerk of the district court from  
6 8 collecting uncontested parking violation fines of a city or  
6 9 county.

6 10 The bill equalizes the maximum fine and term of  
6 11 imprisonment for a city or county ordinance violation with the  
6 12 maximum fine and imprisonment for a simple misdemeanor in Code  
6 13 section 903.1. Current law provides that the maximum fine for  
6 14 a city or county violation shall not exceed \$500 and the  
6 15 maximum term of imprisonment shall not exceed 30 days in jail.  
6 16 A simple misdemeanor is punishable by confinement for no more  
6 17 than 30 days or a fine of at least \$65 but not more than \$625,  
6 18 or by both.

6 19 Under the bill, when a violation of a municipal infraction  
6 20 occurs and a civil penalty is assessed, a copy of the citation  
6 21 shall be served on the defendant, and the original citation  
6 22 shall be sent to the clerk of the district court. Current law  
6 23 provides that a copy of the citation be sent to the clerk of  
6 24 the district court.

6 25 The bill strikes the requirement that the clerk of the  
6 26 district court keep a cemetery record book related to Code  
6 27 section 523I.602.

6 28 The bill provides that the clerk of the district court  
6 29 shall keep a record book of certificates of deposit that have  
6 30 not been issued in the name of the clerk but are being held by  
6 31 the clerk on behalf of a conservatorship, trust, or an estate.  
6 32 The bill also provides that the record book shall list the  
6 33 relevant details of the transaction, including but not limited  
6 34 to the name of the conservator, trustee, or executor, and  
6 35 cross references to the court orders opening and closing the

7 1 conservatorship, trust, or estate. Current law provides the  
7 2 clerk to provide a detailed accounting of all funds deposited  
7 3 with the clerk pursuant to Code section 636.37.  
7 4 The bill provides that if the defendant in a small claims  
7 5 action is a corporation, partnership, or association, the  
7 6 clerk, to obtain service, shall mail to the defendant a copy  
7 7 of the original notice, with a conforming copy of the answer  
7 8 form, by certified mail, return receipt to the clerk  
7 9 requested.  
7 10 LSB 1402SV 83  
7 11 jm/rj/8